

**E-FILED**

**12-03-2019, 10:26**

**Scott G. Weber, Clerk  
Clark County**

**IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF CLARK**

**PETER S. KIEMELE, a single man,**

**Plaintiff,**

**vs.**

**WALMART INC., a foreign corporation  
organized under the laws of the State of  
Delaware,**

**Defendant.**

**NO. 19-2-03594-06**

**COMPLAINT FOR DAMAGES**

**[To Comply with Mandatory Arbitration Rules]**

**COMES NOW plaintiff, by and through his undersigned attorney of record, Ryan P. Kurtz,  
for cause of action against defendant and alleges as follows:**

**I. PARTIES**

**1.1 Plaintiff PETER S. KIEMELE at all material times hereto was a resident of  
Vancouver, Clark County, Washington.**

**1.2 Upon information and belief, Defendant WALMART INC. ("Walmart") is a Delaware  
corporation (UBI 601 336 273) doing business in, *inter alia*, Vancouver, Clark County, State of  
Washington as "Walmart".**

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**JACKSON, JACKSON & KURTZ, INC. PS  
ATTORNEYS AT LAW  
704 East Main Street, Suite 102  
Battle Ground, Washington 98604  
(360) 687-7106**

## II. JURISDICTION AND VENUE

2.1 The acts and omissions giving rise to this cause of action occurred in Vancouver, Clark County, Washington.

2.2 Defendant conducts business in Vancouver, Clark County, Washington.

2.3 Jurisdiction and venue are properly laid in the Clark County Superior Court.

## III. FACTS

3.1 Walmart operates store no. 2947 located in Vancouver (the "Premises").

3.2 Plaintiff was injured in an incident that occurred upon the Premises on January 14, 2017, at approximately 8:40 am (the "Incident").

3.3 On the day of the Incident, Plaintiff had walked to the Premises to shop.

3.4 There had been a snow storm, and a grader had cleared snow from the parking lot. An icy surface was created and remained from the grading. No sand or salt was on the ice, and no warning cones or signs had been placed.

3.5 Plaintiff slipped in the parking lot and fell.

3.6 The untreated ice that remained in the parking lot after the snow had been cleared and where the Incident occurred constituted an unreasonably dangerous condition upon the Premises.

3.7 Upon information and belief, Defendant created the unreasonably dangerous condition upon the Premises or knew or should have known of its existence prior to the Incident in the exercise of reasonable care.

3.8 Defendant failed to remediate the unreasonably dangerous condition upon the Premises or warn Plaintiff of its existence prior to the Incident.

3.9 As a result of his fall Plaintiff suffered personal injuries and general damages in an amount to be proven at trial.

**IV. CAUSE OF ACTION**

**A. Negligence (Premises Liability)**

4.1 Plaintiff realleges all prior paragraphs as though fully stated herein.

4.2 Defendant owed Plaintiff a duty of reasonable care as a business invitee.

4.3 Defendant breached its duty of reasonable care by failing to ensure that the Premises were reasonably safe despite having created or having actual or constructive knowledge of the existence of an unreasonably dangerous condition.

4.4 As a direct and proximate result of Defendant's negligence, Plaintiff sustained personal injuries and suffered special and general damages in an amount to be proven at trial.

**V. NOTICE REGARDING ARBITRABILITY**

5.1 Plaintiff represents this matter is subject to arbitration pursuant to RCW 7.06.020, MAR 1.2, LMAR 1.2 because the sole relief sought is a money judgment and involves no claim in excess of \$100,000, exclusive of attorney fees, interest and costs. Plaintiff intends to file a Statement of Arbitrability. Discovery should be limited pursuant to MAR 4.2 accordingly.

**VI. PRAYER FOR RELIEF**

WHEREFORE having fully set forth his claims against Defendant, Plaintiff prays for relief as follows:

A. For monetary judgment in an amount sufficient to compensate Plaintiff for the damages he suffered as a result of the acts described herein;

B. For prejudgment interest on all liquidated amounts as allowed by law;

C. For his reasonable costs and attorneys' fees incurred herein, pursuant to all applicable statutory, common law, and equitable theories; and

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1 D. For such other and further relief as the Court deems just and equitable.

2 DATED at Battle Ground, Washington, this 29 day of November, 2019.

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5 RYAN P. KURTZ, WSBA# 48167  
6 Attorney for Plaintiff  
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